

(e) *Public access to data.* Financial data filed with the Director, NPFC, by an applicant, certificant, and any other person is considered public information to the extent required by the Freedom of Information Act (5 U.S.C. 552) and permitted by the Privacy Act (5 U.S.C. 552a).

(f) *Total applicable amount.* The total applicable amount is determined as follows:

(1) The applicable amount under OPA 90 is equal to the applicable vessel limit of liability, which is determined as provided in subpart B of this part.

(2) The applicable amount under CERCLA is determined as follows:

(i) For a vessel over 300 gross tons carrying a hazardous substance as cargo, the greater of \$5,000,000 or \$300 per gross ton.

(ii) For any other vessel over 300 gross tons, the greater of \$500,000 or \$300 per gross ton.

(3) The total applicable amount is the applicable amount determined under paragraph (f)(1) of this section plus the applicable amount determined under paragraph (f)(2) of this section.

§ 138.85 Implementation schedule for amendments to applicable amounts by regulation.

Each operator of a vessel described in § 138.15 must establish evidence of financial responsibility acceptable to the Director, NPFC, in an amount equal to or greater than the total applicable amounts determined under § 138.80(f), by not later than January 15, 2009. In the event an applicable amount determined under § 138.80(f) is thereafter amended by regulation, each operator of a vessel described in § 138.15 must establish evidence of financial responsibility acceptable to the Director, NPFC, in an amount equal to or greater than the amended total applicable amount, by not later than 90 days after the effective date of the final rule, unless another date is required by statute or specified in the amending regulation.

§ 138.90 Individual and Fleet Certificates.

(a) The Director, NPFC, issues an individual Certificate for each vessel listed on a completed Application or re-

quest for renewal when the Director, NPFC, determines that acceptable evidence of financial responsibility has been provided and appropriate fees have been paid, except where a Fleet Certificate is issued under this section or where a Master Certificate is issued under § 138.110. Each Certificate of any type issued under this subpart is issued only in the name of a vessel operator and is effective for not more than 3 years from the date of issuance, as indicated on each Certificate. An authorized official of the applicant may submit to the Director, NPFC, a letter requesting that additional vessels be added to a previously submitted Application for an individual Certificate. The letter must set forth all information required in item 5 of the Application form. The authorized official must also file, or cause to be filed with the Director, NPFC, acceptable evidence of financial responsibility, if required, and must pay all applicable certification fees for the additional vessels.

(b) An operator of a fleet of two or more barges that are not tank vessels and that from time to time may be subject to this subpart (e.g., a hopper barge over 300 gross tons when carrying oily metal shavings or similar cargo) may apply to the Director, NPFC, for issuance of a Fleet Certificate, so long as the operator of such a fleet is a self-insurer or arranges with an acceptable guarantor to cover, automatically, all such barges for which the operator may from time to time be responsible.

(c) A person must not make any alteration on any copy of a Certificate issued under this subpart.

(d) If, at any time after a Certificate has been issued, a certificant becomes aware of a change in any of the facts contained in the Application or supporting documentation, the certificant must notify the Director, NPFC, in writing within 10 days of becoming aware of the change. A vessel or operator name change or change of a guarantor must be reported by the operator as soon as possible by telefax or other electronic means to the Director, NPFC, and followed by a written notice sent within 3 business days. (See, § 138.45, Where to apply for and renew Certificates, for contact information).